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STATE OF HAWAII
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

TO: Chief Procurement Officer

STATE PROCUREMENT OFFICE
STATE OF HAWAIIADMINISTRATION
STATE PROCUREMENT OFFICE
STATE OF HAWAIIFROM: Department of Public Safety, Director's Office
(Department/Division/Agency)

Pursuant to § 103D-102(b)(4), HRS, and Chapter 3-120, HAR, the Department requests a procurement exemption to purchase the following:

Description of goods, services, or construction:

Housing of female inmates in a secure confinement facility in another state, to include care and custody, health care and transportation.

Name of Vendor: GRW Corporation
Address: 6104 Belle Rive Drive
Brentwood, TN 37027

Cost:
\$1,604,145.00

Term of Contract: From: Date of To: June 30, 2005
Approval

Prior Exemption Ref. No. (if applicable)

Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

See Attached

Details of the process or procedure to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:

See Attached

PEH No. 05-05

A description of the agency's internal controls and approval requirements for the exempted procurement:

See Attached

A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Director of Public Safety, John Peyton will approve the Agreement.
Deputy Director Frank Lopez will administer the contract.
Shari Kimoto will serve as contract monitor.

Direct questions to:

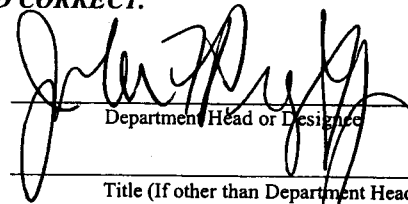
Deputy Director Frank Lopez

Phone Number:

587-1340

This exemption should be considered for list of exemptions attached to Chapter 3-120, HAR: Yes ☐ No ☒

**I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS, TO THE BEST OF MY KNOWLEDGE,
TRUE AND CORRECT.**

 6/25/04
Department Head or Designee Date
Title (If other than Department Head)

Chief Procurement Officer's Comments:


The procurement statute, rules and materials developed by SPO for purchases of health and human services are designed to assist state agencies in making viable, efficient and cost effective purchases of services. The SPO is available to provide technical assistance and training to PSD.

Please ensure adherence to applicable administrative requirements.

☒ APPROVED

☐ DISAPPROVED

cc: Administrator,
State Procurement Office


Chief Procurement Officer

7/21/04
Date

PEH No. 05-05

ATTACHMENT FOR REQUEST FOR EXEMPTION FROM CHAPTER 103D, H.R.S.

1. The Women's Community Correctional Center ("WCCC") is overcrowded. As of June 21, 2004, WCCC housed 293 female inmates in a facility with an operating capacity of 260. For various reasons, approximately 69 additional inmates are under the jurisdiction of WCCC, but not present at the facility. The reasons include alternative housing at T.J. Mahoney or furlough for women transitioning into the community, hospitalization, or intermittent sentencing by the court. Although not physically present at WCCC, these women remain under the jurisdiction of WCCC because PSD could change their status and require these women to return.

An additional 63 female inmates are currently housed in the Mabel Bassett Correctional Center in Oklahoma. The contract with the State of Oklahoma will expire on July 1, 2004, although we are seeking a thirty day extension with them in order to obtain this exemption. Because WCCC is already overcrowded, the 63 female inmates on the mainland cannot be returned to WCCC, the only female prison in the State of Hawaii.

The Department has been searching for bed space in other states that are suitable for housing these female inmates. When evaluating facilities, we have reviewed the following factors:

- ACA Accreditation
- Medical
- Substance Abuse Treatment Program
- Cognitive Restructuring Program
- Living Skills Program
- Education
- Vocational Training
- Work lines
- Religious Program
- Disciplinary Process
- Grievance Process
- Commissary
- Case management
- Staff Training
- Cultural based programs
- Food Service
- Transportation Costs to move from Oklahoma
- Cost per inmate per day
- Government entity
- Reasonable request from PSD
- Experience of Staff
- Age of facility
- Size of facility
- Gender specific housing

The Department has located suitable bed space for these 63 female inmates in Brush County, Colorado. These beds were available as of July 1, 2004. Department teams have visited the site, spoken to the warden and managers, and personally inspected the facilities. Based upon these inspections, we have concluded that this facility best meets our criteria. Therefore, we were seeking an intergovernmental agreement with Brush County for the housing of female inmates in the Brush County Correctional Facility, operated by GRW Corporation, a reputable private company which specializes in correctional management.

On June 25, 2004, we were informed that Brush County requires additional time to ensure that it has the requisite statutory authority to enter into the intergovernmental agreement. Prior to this time, we had no basis to believe the county would not sign the intergovernmental agreement. We do not know when they will reach a final decision, and whether they will need additional statutory authority in order to execute the intergovernmental agreement.

Because we are unable to come to an agreement on this legal issue, negotiations have come to a standstill. However, GRW is willing to contract with us on exactly the same terms and conditions, including price and services, as would Brush County if they had the necessary statutory authority. Therefore, we are requesting an exemption from Chapter 103D, to allow us to enter into an Agreement with GRW. It would not be practical or advantageous to try to procure these services through competitive means at this time, because we know of no other housing that would better meet our criteria at this time, and the competitive process will, in all probability, have the same result.

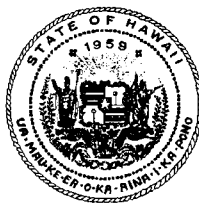
2. In April 2004, the department sent a Letter of Intent to several vendors soliciting cost figures for the incarceration of 60 -100 sentenced felon females. One of the mandatory conditions was that the contract would be entered into with a governmental entity. The department received responses from 7 organizations: Oklahoma Department of Corrections, Maranatha, CSC, LSC CS Inc., MTS Corp., Emerald Corp., and GRW.

A group of four people evaluated the proposals, and the top three organizations were selected. 1) Maranatha, 2) Emerald Corp. 3) GRW. These three organizations provided the most programs/services/requirements of the seven organizations. Arrangements were made for the site visit of Maranatha and Emerald Corp only, as staff from the department already visited GRW facility. Maranatha was later eliminated because California law did not allow the housing of out-of-state inmates in their state, except through the interstate compact agreement. Warden Ted Sakai visited Emerald Corp. facility and felt that it wasn't appropriate because they were very large, and housed both males and females jail inmates at the facility. GRW was then pursued.

Although Oklahoma DOC stated that they would try to provide many of the programs listed, PSD's experience over the last year demonstrated that Oklahoma's facility did not have the work opportunities or substance abuse and other programming demanded for Hawaii inmates. The lack of activities made the Oklahoma facility

unacceptable on a long-term basis. CSC did not provide a location and was very unspecific about their ability to provide services and the cost. LSC did not provide any information regarding the services or programs available. MTS was a male/female facility and quoted a higher price. GRW stated that they were able to provide 17 out the 19 requirements, was a small facility of 250 (an appropriate size for our population, making more program/work line slots available for our inmates), and was the sole female-only facility under final consideration.

3. The Department has explored all known possibilities for housing inmates in suitable out-of-state correctional facilities. All potential vendors have been evaluated to ensure that their facilities meet the minimum criteria. The Director of Public Safety has closely reviewed the various options, to ensure that the States receives quality service at a fair price, and has approved the Brush County Correctional Facility option.



STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
PUBLIC SAFETY, HAWAIIAN HOME LANDS AND HOUSING DIVISION
465 SOUTH KING STREET, ROOM B-2
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(808) 587-2978
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July 20, 2004

MEMORANDUM

TO: Aaron Fujioka, Administrator
State Procurement Office
Department of Accounting and General Services

THROUGH John F. Peyton, Jr. Director
Department of Public Safety

FROM: Bryan C. Yee ✓
Supervising Deputy Attorney General

RE: Exemption from Procurement Requirements

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
PROCUREMENT OFFICE

4 JUL 21 AM 55

This memorandum supplements the request for exemption from procurement requirements submitted earlier.

1. The initial request asks for an exemption from chapter 103D, Hawaii Revised Statutes. Because the contract is for housing services for female inmates, however, the request should be for an exemption from chapter 103F, Hawaii Revised Statutes. Accordingly, please treat the request as one for an exemption from chapter 103F.
2. Subsequent to the submittal of the request, I contacted Robert Chapman, attorney for the City of Brush. He informed me that the City of Brush is not authorized to execute a contract with the State of Hawaii.
3. The State of Oklahoma has agreed to allow the female inmates to stay in their facility until July 30, 2004. As stated previously, these inmates cannot be returned to Hawai'i. Accordingly, we are asking to expedite our request in order to allow enough time to enable the appropriate arrangements to move them.
4. The Department of Public Safety will seek services to house female inmates on the Mainland through the chapter 103F procurement process, but needs adequate time to complete it (approximately one year). As this will be the first such proposal developed by the Department and the most complex attempted to date, it is anticipated up to twelve (12) months may be

necessary to complete the procurement process. It is possible that addendum may be needed which will extend the timeline, and an R.F.I. may be needed to determine whether the R.F.P is feasible.

The services being requested encompass all aspects of inmate lives and the RFP must include explicit descriptions of specific services required. This will require detailed input from various subject experts, in areas ranging from health care to vocational training. The information must be explicit enough to ensure the services offered at the contracted facility conform to services available in Hawaii facilities to facilitate the continuity of programs as inmates are moved through the system.

In addition, PSD will need to identify all the requirements for a correctional facility, a more difficult task than inspecting a facility to determine if it has any fatal flaws. For example, we did not previously identify a requirement that the facility shall not house prison and jail inmates together and will need to determine if NCCHC standards must be met. PSD will need to articulate the minimum requirements, a much more difficult task than simply reviewing a facility to determine if it is adequate. For example, we listed twenty-four criteria, but did not try to describe the specific requirements for each criterion. Furthermore, PSD will need to determine what requirements can be accomplished in different ways, and what requirements must be accomplished in a particular way. For example, there are optimal sizes of facilities that are better for our inmates. But PSD has not decided whether a specific range is a mandatory requirement or simply a factor in the decision. These are drafting problems that may require input from a variety of different individuals with different kinds of expertise, all pulled together by a single individual or at most a very small group of individuals tasked with the drafting responsibilities.

PSD will probably need to visit the physical complex of at least the top three mainland facilities, and may want to ask for a revised final proposal. Finally, we must be sure there is time built into the process for responding to protests and problems because services cannot be discontinued even temporarily, and the new contract must be completely executed before this exemption expires.